

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1218

Short Title: Judicial Branch Budget Reform. (Public)

Sponsors: Representatives Culpepper and Kiser (Primary Sponsors).

Referred to: Appropriations Subcommittee on Justice and Public Safety.

April 10, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO REINFORCE THE INDEPENDENCE OF THE JUDICIAL BRANCH
3 AS A SEPARATE AND COORDINATE BRANCH OF STATE GOVERNMENT
4 AND TO ENSURE THE FISCAL INTEGRITY AND ACCOUNTABILITY OF
5 THE JUDICIAL BRANCH, AS RECOMMENDED BY THE STATE JUDICIAL
6 COUNCIL.

7 The General Assembly of North Carolina enacts:

8
9 PART I. JUDICIAL BRANCH FISCAL INTEGRITY AND ACCOUNTABILITY

10
11 **SECTION 1.** Chapter 7A of the General Statutes is amended by
12 redesignating Article 29A, "Trial Court Administrators", as Article 29C and by adding a
13 new Article to read:

14 "Article 29A.

15 "Judicial Branch Fiscal Integrity and Accountability.

16 **"§ 7A-349. Appropriations to the Judicial Branch of Government.**

17 All General Fund appropriations made by the General Assembly for the continuing
18 operations of the Judicial Branch of Government shall be made to four categories within
19 the budget code of the Judicial Branch for each year of the fiscal period for which the
20 appropriation is being made: personnel, operating expenses, equipment, and other.
21 Notwithstanding any contrary provision in Article 1 of Chapter 143 of the General
22 Statutes (the Executive Budget Act) or elsewhere in the General Statutes, the Director of
23 the Administrative Office of the Courts, after consultation with and upon the advice of
24 the State Judicial Council, may expend the General Fund monies so appropriated in the
25 manner deemed by the Director to be best calculated to maintain and advance the
26 effective and efficient operation of the Judicial Branch as a separate and coordinate
27 branch of the government of the State. The preparation, presentation, and review of
28 expansion budget requests of the Judicial Branch shall be conducted as provided in G.S.
29 7A-409.1 and G.S. 143-8. Except as provided in G.S. 143-25(c), the quarterly allotment

1 procedure established under G.S. 143-17 shall apply to General Fund appropriations
2 made for the current operations of the Judicial Branch. All General Fund monies so
3 appropriated shall be recorded, reported, and audited in the same manner as are General
4 Fund appropriations to the Executive and Legislative Branches of Government.

5 **"§ 7A-350. Reserve funds.**

6 (a) All appropriations for the continuing operations of the Judicial Branch of
7 Government shall include appropriations to the reserves created by this section.

8 (b) There is created within the budget of the Judicial Branch a Position Reserve
9 that shall include all funding required for the additional assistant and deputy clerks of
10 superior court, magistrates, judicial support staff, assistant district attorneys, and
11 prosecutorial support staff required statewide to keep up with the increased workload of
12 the courts in each fiscal year, as determined by the Director under the formulas
13 developed under G.S. 7A-343(2a). All monies in the Position Reserve shall be expended
14 exclusively to fund such positions.

15 (c) There is created within the budget of the Judicial Branch an Equipment
16 Replacement Reserve that shall include all funding required for the replacement and
17 upgrade of equipment each fiscal year, as those replacement and upgrade needs are
18 determined by the Director using the aging and replacement tables and formulas
19 developed under G.S. 7A-343(6a). All monies in the Equipment Replacement Reserve
20 shall be expended exclusively to replace and upgrade such equipment.

21 **"§ 7A-351. Reversions.**

22 Of the General Fund current operations appropriations credit balance remaining at
23 the end of each fiscal year in the budget code for the Judicial Branch of Government,
24 any amount may be carried forward to the next fiscal year and may be used for one-time
25 expenditures that will not impose additional obligations on the State.

26 **"§ 7A-352. Position management.**

27 After consultation with, and upon the advice of, the State Judicial Council, the
28 Director may establish and abolish, and allocate and reallocate, all personnel positions
29 within the Judicial Branch of Government so as best to meet the personnel needs of all
30 Judicial Branch hiring authorities and of the Administrative Office of the Courts and to
31 assure the most effective and efficient overall operation of the Judicial Branch of
32 Government. This authority is subject to the following limitations:

33 (1) The authority does not apply to the following positions:

- 34 a. Justices and judges of the General Court of Justice;
35 b. The Assistant Director of the Administrative Office of the
36 Courts provided for in G.S. 7A-340 and 7A-342;
37 c. Clerks of Superior Court provided for in G.S. 7A-100;
38 d. District attorneys provided for in G.S. 7A-60;
39 e. The Clerk of the Supreme Court, the Clerk of the Court of
40 Appeals, the Supreme Court Librarian, the Supreme Court
41 Marshall, the Appellate Reporters, and the Assistant Director of
42 the Administrative Office of the Courts;

1 f. The executive directors of the Judicial Standards Commission,
2 the Conference of District Attorneys, and the Sentencing and
3 Policy Advisory Commission; or

4 g. Positions provided for in Article 39B of this Chapter (Indigent
5 Defense) or otherwise funded from the Indigent Persons'
6 Attorney Fee Fund;

7 (2) Positions for assistant and deputy clerks of superior court, magistrates,
8 judicial support staff, assistant district attorneys, and prosecutorial
9 support staff shall be allocated among the counties of the State
10 according to the formula developed under G.S. 7A-343(2a);

11 (3) The magistrate positions for each county shall not be fewer than the
12 minimum number specified for the county in G.S. 7A-133(c); and

13 (4) The assistant district attorney positions for a prosecutorial district shall
14 not be fewer than the minimum number specified for the district in
15 G.S. 7A-60.

16 **"§ 7A-353. Report to the Joint Legislative Commission on Governmental**
17 **Operations.**

18 On or before October 1 of each calendar year, the Director shall submit to the Joint
19 Legislative Commission on Governmental Operations a detailed report of all
20 expenditures made and other actions taken under this Article for the fiscal year ending
21 June 30 of that year.

22 **"§ 7A-354. Nonreverting special funds and other earmarked or pass-through**
23 **funds.**

24 (a) Nothing in this Article expands the permissible uses of any nonreverting
25 special funds within the budget of the Judicial Branch of Government, including the
26 Court Information Technology Fund created by G.S. 7A-343.2, the Collection of
27 Worthless Checks Fund created by G.S. 7A-308(c), and the Indigent Persons' Attorneys
28 Fee Fund, or to other similar funds earmarked by statute for a specific purpose.

29 (b) This Article does not apply to funds generated by the administrative fees for
30 the regulation of mediators collected pursuant to G.S. 7A-39.2.

31 (c) Nothing in this Article precludes the General Assembly from designating the
32 Administrative Office of the Courts as the appropriate State entity to receive and
33 disburse State funds appropriated to non-State entities."

34
35 PART II. CONFORMING CHANGES TO DUTIES OF THE DIRECTOR OF THE
36 ADMINISTRATIVE OFFICE OF THE COURTS AND THE STATE JUDICIAL
37 COUNCIL

38
39 **SECTION 2.1.** G.S. 7A-343 reads as rewritten:

40 **"§ 7A-343. Duties of Director.**

41 The Director is the Administrative Officer of the Courts, and his duties include the
42 following:

- 1 (1) Collect and compile statistical data and other information on the
2 judicial and financial operation of the courts and on the operation of
3 other offices directly related to and serving the courts;
- 4 (2) Determine the state of the dockets and evaluate the practices and
5 procedures of the courts, and make recommendations concerning the
6 number of ~~judges, judges and~~ district attorneys, and magistrates
7 attorneys required for the efficient administration of justice;
- 8 (2a) After consultation with, and on the advice of, the State Judicial
9 Council, develop a workload-based methodology for the allocation of
10 assistant and deputy clerks of superior court and magistrates among
11 the counties of the State, for the allocation of assistant district
12 attorneys among the prosecutorial districts of the State, and for the
13 allocation of judicial support staff and prosecutorial support staff. In
14 developing this methodology, the Director may take into
15 consideration, among other things, prior personnel levels, growth in
16 caseload volume and composition, population, the effect of technology
17 on personnel needs, recommendations of appropriate State and
18 national organizations and agencies specializing in determining the
19 personnel needs of courts, and other relevant factors;
- 20 (2b) Establish and abolish, and allocate and reallocate, personnel positions
21 within the Judicial Branch of Government, as further provided in G.S.
22 7A-352;
- 23 (3) Prescribe uniform administrative and business methods, systems,
24 forms and records to be used in the offices of the clerks of superior
25 court;
- 26 (4) Prepare and submit budget estimates of State appropriations necessary
27 for the maintenance and operation of the ~~Judicial Department, and~~
28 ~~authorize expenditures from funds appropriated for these purposes;~~
29 Judicial Branch as further provided in G.S. 7A-409.1 and G.S. 143-8;
- 30 (4a) After consultation with, and on the advice of, the State Judicial
31 Council, authorize expenditures from funds appropriated for the
32 maintenance and operation of the Judicial Branch, as further provided
33 in Article 29A of this Chapter, including:
- 34 a. Authorize expenditures from the Position Reserve and the
35 Equipment Replacement Reserve created by G.S. 7A-350; and
- 36 b. Specify the uses, within the Judicial Branch budget, of funds
37 that remain available for expenditure at the end of each fiscal
38 year under G.S. 7A-351 and G.S. 143-18 or revert such funds
39 under G.S. 143-18.
- 40 (5) Investigate, make recommendations concerning, and assist in the
41 securing of adequate physical accommodations for the General Court
42 of Justice;

- 1 (6) Procure, distribute, exchange, transfer, ~~and assign~~ assign, and reassign
2 such equipment, books, forms and supplies as are to be acquired with
3 State funds for the General Court of Justice;
- 4 (6a) Develop standard tables and formulas for the aging and replacement of
5 all equipment used in the Judicial Branch and use funds available in
6 the Equipment Replacement Reserve created by G.S. 7A-350 to
7 replace and upgrade equipment in accordance with those tables and
8 formulas;
- 9 (7) Make recommendations for the improvement of the operations of the
10 Judicial ~~Department;~~ Branch;
- 11 (8) Prepare and submit an annual report on the work of the Judicial
12 ~~Department~~ Branch to the Chief Justice, and transmit a copy to each
13 member of the General Assembly;
- 14 (9) Assist the Chief Justice in performing his duties relating to the transfer
15 of district court judges for temporary or specialized duty;
- 16 (9a) Establish and operate systems and services that provide electronic
17 transaction processing and access to court information systems
18 pursuant to G.S. 7A-343.2; and
- 19 (10) Perform such additional duties and exercise such additional powers as
20 may be prescribed by statute or assigned by the Chief Justice."

21 **SECTION 2.2.** G.S. 7A-409.1(a) reads as rewritten:

22 "(a) The State Judicial Council shall:

- 23 (1) Study the judicial system and report periodically to the Chief Justice
24 on its findings;
- 25 (2) Advise the Chief Justice on priorities for funding;
- 26 (3) Review and advise the Chief Justice on the budget prepared by the
27 Director of the Administrative Office of the Courts for submission to
28 the General Assembly;
- 29 (4) Study and recommend to the General Assembly the salaries of justices
30 and judges;
- 31 (5) Recommend to the General Assembly changes in the expense
32 allowances, benefits, and other compensation for judicial officials;
33 bills to implement such recommendations shall have the same status
34 for introduction in the General Assembly as bills recommended by the
35 Courts Commission;
- 36 (6) Recommend the creation of ~~judgeships;~~ and judgeships;
- 37 (6a) Consult with the Director on, and advise the Director in, the
38 performance of the Director's duties under G.S. 7A-343(2a),
39 7A-343(4a), and 7A-343(6a) and under Article 29A of this Chapter
40 (Judicial Branch Fiscal Integrity and Accountability); and
- 41 (7) Advise or assist the Chief Justice, as requested, on any other matter
42 concerning the operation of the courts."
43

1 PART III. ADDITIONAL CONFORMING CHANGES TO CHAPTER 7A OF THE
2 GENERAL STATUTES

3
4 **SECTION 3.1.** G.S. 7A-60(a1) reads as rewritten:

5 "(a1) The counties of the State are organized into prosecutorial districts, and each
6 district has the counties and at least the number of full-time assistant district attorneys
7 set forth in the following table: table. The Director of the Administrative Office of the
8 Courts may establish additional assistant district attorney positions for a prosecutorial
9 district, as provided in Article 29A of this Chapter.

10			No. of Full-Time
11	Prosecutorial	Counties	Asst. District
12	District		Attorneys
13	1	Camden, Chowan, Currituck,	9
14		Dare, Gates, Pasquotank,	
15		Perquimans	
16	2	Beaufort, Hyde, Martin,	5
17		Tyrrell, Washington	
18	3A	Pitt	9
19	3B	Carteret, Craven, Pamlico	10
20	4	Duplin, Jones, Onslow,	14
21		Sampson	
22	5	New Hanover, Pender	14
23	6A	Halifax	4
24	6B	Bertie, Hertford,	4
25		Northampton	
26	7	Edgecombe, Nash, Wilson	15
27	8	Greene, Lenoir, Wayne	11
28	9	Franklin, Granville,	10
29		Vance, Warren	
30	9A	Person, Caswell	4
31	10	Wake	30
32	11	Harnett, Johnston, Lee	14
33	12	Cumberland	18
34	13	Bladen, Brunswick, Columbus	10
35	14	Durham	13
36	15A	Alamance	8
37	15B	Orange, Chatham	7
38	16A	Scotland, Hoke	5
39	16B	Robeson	9
40	17A	Rockingham	5
41	17B	Stokes, Surry	5
42	18	Guilford	26
43	19A	Cabarrus	6

1	19B	Montgomery, Moore, Randolph	11
2	19C	Rowan	5
3	20	Anson, Richmond,	15
4		Stanly, Union	
5	21	Forsyth	17
6	22	Alexander, Davidson, Davie,	16
7		Iredell	
8	23	Alleghany, Ashe, Wilkes,	5
9		Yadkin	
10	24	Avery, Madison, Mitchell,	4
11		Watauga, Yancey	
12	25	Burke, Caldwell, Catawba	14
13	26	Mecklenburg	33
14	27A	Gaston	12
15	27B	Cleveland,	8
16		Lincoln	
17	28	Buncombe	10
18	29	Henderson, McDowell, Polk,	11
19		Rutherford, Transylvania	
20	30	Cherokee, Clay, Graham,	8
21		Haywood, Jackson, Macon,	
22		Swain."	

SECTION 3.2. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have ~~the numbers of magistrates and~~ at least the number of magistrates, and the additional seats of district court, as set forth in the following table: The Director of the Administrative Office of the Courts may establish additional magistrate positions for a county, as provided in Article 29A of this Chapter.

County	Magistrates		Additional Seats of Court
	Min.	Max.	
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	5	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville

1				Ayden
2	Craven	7	10	Havelock
3	Pamlico	2	4	
4	Carteret	5	8	
5	Sampson	6	8	
6	Duplin	9	11	
7	Jones	2	3	
8	Onslow	8	14	
9	New Hanover	6	11	
10	Pender	4	6	
11	Halifax	9	14	Roanoke
12				Rapids,
13				Scotland Neck
14	Northampton	5	7	
15	Bertie	4	6	
16	Hertford	5	7	
17	Nash	7	10	Rocky Mount
18	Edgecombe	4	7	Rocky Mount
19	Wilson	4	7	
20	Wayne	5	12	Mount Olive
21	Greene	2	4	
22	Lenoir	4	10	La Grange
23	Granville	3	7	
24	Vance	3	6	
25	Warren	3	5	
26	Franklin	3	7	
27	Person	3	4	
28	Caswell	2	5	
29	Wake	12	21	Apex,
30				Wendell,
31				Fuquay-
32				Varina,
33				Wake Forest
34	Harnett	7	11	Dunn
35	Johnston	10	12	Benson,
36				Clayton,
37				Selma
38	Lee	4	6	
39	Cumberland	10	19	
40	Bladen	4	6	
41	Brunswick	4	9	
42	Columbus	6	10	Tabor City
43	Durham	8	13	
44	Alamance	7	11	Burlington

1	Orange	4	11	Chapel Hill
2	Chatham	3	9	Siler City
3	Scotland	3	5	
4	Hoke	4	5	
5	Robeson	8	16	Fairmont,
6				Maxton,
7				Pembroke,
8				Red Springs,
9				Rowland,
10				St. Pauls
11	Rockingham	4	9	Reidsville,
12				Eden,
13				Madison
14	Stokes	2	5	
15	Surry	5	9	Mt. Airy
16	Guilford	20	27	High Point
17	Cabarrus	5	9	Kannapolis
18	Montgomery	2	4	
19	Randolph	5	10	Liberty
20	Rowan	5	10	
21	Stanly	5	6	
22	Union	4	7	
23	Anson	4	6	
24	Richmond	5	6	Hamlet
25	Moore	5	8	Southern
26				Pines
27	Forsyth	3	15	Kernersville
28	Alexander	2	4	
29	Davidson	7	10	Thomasville
30	Davie	2	3	
31	Iredell	4	9	Mooresville
32	Alleghany	1	2	
33	Ashe	3	4	
34	Wilkes	4	6	
35	Yadkin	3	5	
36	Avery	3	5	
37	Madison	4	5	
38	Mitchell	3	4	
39	Watauga	4	6	
40	Yancey	2	4	
41	Burke	4	7	
42	Caldwell	4	7	
43	Catawba	6	10	Hickory
44	Mecklenburg	15	28	

1	Gaston	11	22	
2	Cleveland	5	8	
3	Lincoln	4	7	
4	Buncombe	6	15	
5	Henderson	4	7	
6	McDowell	3	6	
7	Polk	3	4	
8	Rutherford	6	8	
9	Transylvania	2	4	
10	Cherokee	3	4	
11	Clay	1	2	
12	Graham	2	3	
13	Haywood	5	7	Canton
14	Jackson	3	5	
15	Macon	3	4	
16	Swain	2	3"	

SECTION 3.3. G.S. 7A-171 reads as rewritten:

"§ 7A-171. Numbers; appointment and terms; vacancies.

(a) The General Assembly shall establish a minimum ~~and a maximum~~ quota number of magistrates for each county. In no county shall the minimum quota be less than one.

(b) Not earlier than the Tuesday after the first Monday nor later than the third Monday in December of each even-numbered year, the clerk of the superior court shall submit to the senior regular resident superior court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which his county is located the names of two (or more, if requested by the judge) nominees for each magisterial office ~~in the minimum quota established for the county.~~ county, pursuant to Article 29A of this Chapter. Not later than the fourth Monday in December, the senior regular resident superior court judge shall, from the nominations submitted by the clerk of the superior court, appoint magistrates to fill the ~~minimum quota~~ magisterial offices established for each county of his district or set of districts. The term of a magistrate so appointed shall be two years, commencing on the first day in January of the calendar year next ensuing the calendar year of appointment.

(c) ~~After the biennial appointment of the minimum quota of magistrates, additional magistrates in a number not to exceed, in total, the maximum quota established for each county may be appointed in the following manner. The chief district judge for the district court district in which the county is located, with the approval of the Administrative Officer of the Courts, may certify to the clerk of superior court that the minimum quota is insufficient for the efficient administration of justice and that a specified additional number, not to exceed the maximum quota established for the county, is required. Within 15 days after the receipt of this certification the clerk of superior court shall submit to the senior regular resident superior court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which his county is located the names of two (or more, if requested by the judge) nominees for each additional~~

1 ~~magisterial office. Within 15 days after receipt of the nominations the senior regular~~
2 ~~resident superior court judge shall from the nominations submitted appoint magistrates~~
3 ~~in the number specified in the certification. A magistrate so appointed shall serve a term~~
4 ~~commencing immediately and expiring on the same day as the terms of office of~~
5 ~~magistrates appointed to fill the minimum quota for the county.~~

6 (d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of
7 superior court shall submit to the senior regular resident superior court judge the names
8 of two (or more, if so requested by the judge) nominees for the office vacated. Within
9 15 days after receipt of the nominations the senior regular resident superior court judge
10 shall appoint from the nominations received a magistrate who shall take office
11 immediately and shall serve for the remainder of the unexpired term."
12

13 PART IV. CONFORMING CHANGES TO THE EXECUTIVE BUDGET ACT AND
14 RELATED PROVISIONS
15

16 **SECTION 4.1.** G.S. 143-18 reads as rewritten:

17 **"§ 143-18. Unencumbered balances to revert to treasury; capital appropriations**
18 **excepted.**

19 All unencumbered balances of maintenance appropriations shall revert to the State
20 treasury to the credit of the general fund or special funds from which the appropriation
21 and/or appropriations, were made and/or expended, at the end of each fiscal year; except
22 that capital expenditures for the purchase of land, the erection of buildings, new
23 construction or renovations in progress shall continue in force until the attainment of the
24 object or the completion of the work for which the appropriations are made; except that
25 maintenance appropriations to the General Assembly shall remain available until
26 expended, unless otherwise provided by the Legislative Services ~~Commission.~~
27 Commission, and except that maintenance appropriations to the Judicial Branch of
28 Government shall remain available until expended, unless otherwise provided by the
29 Director of the Administrative Office of the Courts.

30 As used in this section, "unencumbered" means not obligated in the form of
31 purchase orders, contracts, renovations in progress or salary commitments. No purchase
32 orders, contracts, renovations in progress, or salary commitments shall be entered into
33 during a fiscal year unless sufficient funds are available within the purpose for which
34 the funds were appropriated by the General Assembly or as authorized by the Director
35 of the Budget as allowed by law."

36 **SECTION 4.2.** G.S. 143-25 reads as rewritten:

37 **"§ 143-25. Maintenance appropriations dependent upon adequacy of revenues to**
38 **support them.**

39 (a) All maintenance appropriations now or hereafter made are hereby declared to
40 be maximum, conditional and proportionate appropriations, the purpose being to make
41 the appropriations payable in full in the amounts named herein if necessary and then
42 only in the event the aggregate revenues collected and available during each fiscal year
43 of the biennium for which such appropriations are made, are sufficient to pay all of the
44 appropriations in full; otherwise, the said appropriations shall be deemed to be payable

1 in such proportion as the total sum of all appropriations bears to the total amount of
2 revenue available in each of said fiscal years. Except as provided in ~~subsection (b)~~
3 subsections (b) and (c) of this section, the Director of the Budget is given full power and
4 authority to examine and survey the progress of the collection of the revenue out of
5 which such appropriations are to be made, and to declare and determine the amounts
6 that can be, during each quarter of each of the fiscal years of the biennium properly
7 allocated to each respective appropriation. In making such examination and survey, the
8 Director of the Budget shall receive estimates of the prospective collection of revenues
9 from the Secretary of Revenue and every other revenue collecting agency of the State.
10 The Director of the Budget may reduce all of said appropriations pro rata when
11 necessary to prevent an overdraft or deficit to the fiscal period for which such
12 appropriations are made. The Governor may also reduce all of said appropriations
13 pursuant to Article III, Section 5(3) of the Constitution in accordance with subsection
14 (b) of this section, after consulting with the Joint Legislative Commission on
15 Governmental Operations under G.S. 120-76(8) if prior consultation is required by that
16 section. The purpose and policy of this Article are to provide and insure that there shall
17 be no overdraft or deficit in the general fund of the State at the end of the fiscal period,
18 growing out of appropriations for maintenance and the Director of the Budget is
19 directed and required to so administer this Article as to prevent any such overdraft or
20 deficit. Prior to taking any action under this section to reduce appropriations pro rata,
21 the Governor may consult with the Advisory Budget Commission.

22 (b) The General Assembly recognizes that it has required units of local
23 government to adopt and maintain annual balanced budgets and take other steps to
24 assure financially sound operations under the Local Government Budget and Fiscal
25 Control Act and other provisions of Chapter 159 of the General Statutes. Accordingly,
26 the General Assembly finds that in order to satisfy those statutory requirements and
27 provide adequate services to their citizens, units of local government must be able to
28 rely on the funds and local revenue sources the General Assembly has provided.

29 It is the intent of the General Assembly that funds that have been collected by the
30 State on behalf of local governments and funds that the General Assembly has
31 appropriated or otherwise committed to local governments shall not be reduced except
32 as provided in this section. In exercising the powers contained in Section 5(3) of Article
33 III of the North Carolina Constitution, the Governor shall not withhold from distribution
34 funds that have been collected by the State on behalf of local governments or funds that
35 the General Assembly has appropriated or otherwise committed to local governments
36 unless, after making adequate provision for the prompt payment of principal of and
37 interest on bonds and notes of the State according to their terms, the Governor has
38 exhausted all other sources of revenue of the State including surplus remaining in the
39 treasury at the beginning of the fiscal period.

40 This subsection does not authorize the Governor to withhold revenues from taxes
41 levied by units of local governments and collected by the State. The General Assembly
42 recognizes that under Section 19 of Article I of the North Carolina Constitution and
43 under the Due Process Clause of the United States Constitution, the State is prohibited
44 from taking local tax revenue.

1 (c) Whenever performing the duties set forth in Article III, Section 5(3) of the
2 North Carolina Constitution, the Governor shall consult with the Chief Justice before
3 making any reductions or revisions to the Judicial Branch appropriations and, to the
4 extent practicable consistent with the Governor's responsibilities under Article III,
5 Section 5(3) of the Constitution, shall attempt to follow such recommendations as the
6 Chief Justice may make for reductions or revisions in those appropriations."

7 **SECTION 4.3.** G.S. 120-76(8) reads as rewritten:

8 **"§ 120-76. Powers and duties of the Commission.**

9 The Commission shall have the following powers:

10 ...

11 (8) The Joint Legislative Commission on Governmental Operations shall
12 be consulted by the Governor before the Governor does any of the
13 following:

- 14 a. Makes allocations from the Contingency and Emergency Fund.
15 b. Authorizes expenditures in excess of the total requirements of a
16 purpose or program as enacted by the General Assembly and as
17 provided by G.S. 143-23(a1)(3), except for trust funds as
18 defined in G.S. 116-36.1(g).
19 c. Proceeds to reduce programs subsequent to a reduction of ten
20 percent (10%) or more in the federal fund level certified to a
21 department and any subsequent changes in distribution
22 formulas.
23 d. Takes extraordinary measures under Article III, Section 5(3) of
24 the Constitution to effect necessary economies in State
25 expenditures required for balancing the budget due to a revenue
26 shortfall, including, but not limited to, the following: loans
27 among funds, personnel freezes or layoffs, capital project
28 reversions, program eliminations, and use of reserves. However,
29 if the Committee fails to meet within 10 calendar days of a
30 request by the Governor for its consultation, the Governor may
31 proceed to take the actions he feels are appropriate and
32 necessary and shall then report those actions at the next meeting
33 of the Commission. With respect to expenditures from
34 appropriations for the maintenance and operation of the Judicial
35 Branch of Government, the Chief Justice shall comply with this
36 subdivision.
37 e. Approves a new capital improvement project funded from gifts,
38 grants, receipts, special funds, self-liquidating indebtedness,
39 and other funds or any combination of funds for the project not
40 specifically authorized by the General Assembly. The budget
41 for each capital project must include projected revenues in an
42 amount not less than projected expenditures.

43 Notwithstanding the provisions of this subdivision or any other
44 provision of law requiring prior consultation by the ~~Governor~~

1 Governor, or the Chief Justice with respect to expenditures from
2 appropriations for the maintenance and operation of the Judicial
3 Branch, with the Commission, whenever an expenditure is required
4 because of an emergency that poses an imminent threat to public
5 health or public safety, and is either the result of a natural event, such
6 as a hurricane or a flood, or an accident, such as an explosion or a
7 wreck, the Governor or the Chief Justice may take action under this
8 subsection without consulting the Commission if the action is
9 determined by the Governor or the Chief Justice to be related to the
10 emergency. The Governor or the Chief Justice shall report to the
11 Commission on any expenditures made under this paragraph no later
12 than 30 days after making the expenditure and shall identify in the
13 report the emergency, the type of action taken, and how it was related
14 to the emergency."

15
16 PART V. CHANGE REFERENCES FROM "JUDICIAL DEPARTMENT" TO
17 "JUDICIAL BRANCH OF GOVERNMENT"

18
19 **SECTION 5.1.** The Revisor of Statutes shall change all references in the
20 General Statutes to the "Judicial Department" by deleting that term each time it appears
21 and substituting the term "Judicial Branch of Government" or "Judicial Branch" as the
22 context requires and shall make any necessary conforming grammatical changes in the
23 affected provisions.

24
25 PART VI. EFFECTIVE DATE AND APPLICABILITY

26 **SECTION 6.1.** This act becomes effective July 1, 2003.
27